



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,674	03/31/2000	Reza Majidi-Ahy	164.1001.01	2065

22883 7590 10/28/2003
SWERNOFSKY LAW GROUP PC
P.O. BOX 390013
MOUNTAIN VIEW, CA 94039-0013

EXAMINER

SMITH, SHEILA B

ART UNIT PAPER NUMBER

2681

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/540,674

Applicant(s)

MAJIDI-AHY, REZA

Examiner

Sheila B. Smith

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☒ Claim(s) 10,11,23,34,36 and 37 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1,14,27, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. The term "could be" in claims 1, 14, 27, is a relative term which renders the claim indefinite. The term "could be" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear to the examiner "the message could be sent" and what?
3. The term "in better form" in claims 1,14,27, is a relative term which renders the claim indefinite. The term "in better form" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is also unclear to the examiner what is ment by "in better form".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 2681

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6,9,12,13,15-19,22,25,26,28-32,38,39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uratani (U. S. Patent Number 5,850,593).

Regarding claims 1-5,9,12,13,15-18,22,25,26,28-31,38,39 Uratani discloses essentially all the claimed invention as set forth in the instant application, further Uratani discloses mobile communication for a mobile station near or outside a service area of a base station. In addition as best understood by the examiner in view of the 112(2) rejection, Uratani further discloses steps of wirelessly sending a message from a base station controller (11), base station controller (11) being capable of controlling a communication cell (13), to at least on customer premises equipment (15)1, where in steps of sending include, sending a message from a source (11) within cell (13) to a first access point (which reads on a repeater as disclosed in the applicant's specification (15)3) associated with base station controller (11) and, and sending a message from first access point (which reads on (15)3) to a destination within a cell (13) and as disclosed in column 2 lines 60-67 and column 3 lines 10-11, additionally a message is sent line of sight from a base station controller (11) to a customer premises equipment (15)1, but is sent via first access point (15)3. However Uratani fail to specifically disclose message could be sent line-of-sight from base station controller to customer premises equipment but is instead sent via first access point so as to be in better form.

Especially in view of the fact that Uratani does provide for a message is sent line of sight from a base station controller (11) to a customer premises equipment (15)1 as disclosed in column 4 lines 27-29, but is sent via first access point (15)3 as disclosed in column 4 lines 31-

Art Unit: 2681

39. Further, the method used by Uratani for extending the reception level more than adequately meet the limitation.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify Uratani by specifically providing for sending a message via a first access point instead of a line of sight for the purpose of extending the reception level of the signal sent from the base station controller.

Regarding claims 6, 19, 32, Uratani discloses everything claimed, as applied above (see claim 1) additionally, Uratani disclose the use of a first access point (15)3, is located within a cell (13), and second access point (15)2, is located outside the cell (17).

5. Claims 7-9,14,20-21,27,33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uratani in view of Norman et al. (U. S Patent Number 6,049,533).

Regarding claims 7-9,20,21,33-35 Uratani discloses everything claimed, as applied above (see claim 1) however, Uratani fails to specifically disclose the use of sending from a source is at lease partially wireless.

In the same field of endeavor of packaging systems for data transfer, Norman et al. discloses a network communication system with information rerouting capabilities. In addition Norman et al. discloses the use of sending from a source is at lease partially wireless and disclosed in column 1 lines 53-55.

Art Unit: 2681

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to improve Uratani by modifying a mobile communication for a mobile station near or outside a service area of a base station with the use of sending from a source is at least partially wireless, as taught by Norman et al. for the purpose of reducing cellular traffic.

Regarding claims 14, 27, Uratani discloses everything claimed, as applied above (see claim 1) additionally as best understood by the examiner in view of the 112(2) rejection, Uratani disclose the use of wireless communication equipment including an antenna a transmitter(23) and a receiver (21) and a processor (35) that controls the equipment, (11), base station controller (11) being capable of controlling a communication cell (13), to at least on customer premises equipment (15)1, where in steps of sending include, sending a message from a source (11) within cell(13) to a first access point (which reads on a repeater as disclosed in the applicant's specification (15)3) associated with base station controller (11) and, and sending a message from first access point (which reads on (15)3) to a destination within a cell (13) and as disclosed in column 2 lines 60-67 and column 3 lines 10-11, additionally a message is sent line of sight from a base station controller (11) to a customer premises equipment (15)1, but is sent via first access point (15)3. However Uratani fail to specifically disclose message could be sent line-of-sight from base station controller to customer premises equipment but is instead sent via first access point so as to be in better form.

Especially in view of the fact that Uratani does provide for a message is sent line of sight from a base station controller (11) to a customer premises equipment (15)1 as disclosed in column 4 lines 27-29, but is sent via first access point (15)3 as disclosed in column 4 lines 31-

Art Unit: 2681

39. Further, the method used by Uratani for extending the reception level more than adequately meet the limitation.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to modify Uratani by specifically providing for sending a message via a first access point instead of a line of sight for the purpose of extending the reception level of the signal sent from the base station controller.

Allowable Subject Matter

6. Claims 10, 11, 23, 34, 36, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2681

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-0104.

S. Smith
October 19, 2003


SINH TRAN
PRIMARY EXAMINER